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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY SACRAMENTO

FAIR POLITICAL PRACTICES COMMISSION, a state agency,	)	Case No.
	)	
Plaintiff,	)	STIPULATION FOR ENTRY OF JUDGMENT
	)	
v.	)	(IN FAVOR OF PLAINTIFF AGAINST DEFENDANTS)
	)	
SAN FRANCISCANS AGAINST THE BLANK CHECK — NO ON MEASURE D COMMITTEE	)	
SPONSORED BY PG&E, JAMES R. SUTTON,	)	
and PG&E CORPORATION,	)	
	)	
Defendants.	)	

Plaintiff Fair Political Practices Commission, a state agency, by its attorneys, and Defendants San Franciscans Against the Blank Check — No On Measure D Committee Sponsored by PG&E (sometimes referred to as the “Committee”), James R. Sutton (“Sutton”), and PG&E Corporation and its affiliated entities and subsidiaries (“PG&E Corporation”), by their attorneys, enter into this stipulation to resolve all factual and legal issues pertaining to the complaint for civil penalties filed herewith.

It is stipulated by and between the parties as follows:

The complaint on file in this action was properly filed and served on Defendants PG&E Corporation, San Franciscans Against the Blank Check – No On Measure D Committee Sponsored by PG&E, and Sutton.

1 Pursuant to stipulation of the parties herein, jurisdiction of the subject matter and of the parties to  
2 this action and venue are properly in Sacramento Superior Court. The complaint states two causes of  
3 action against Defendant PG&E Corporation and one cause of action against Defendants  
4 San Franciscans Against the Blank Check — No On Measure D Committee Sponsored by PG&E and  
5 Sutton, and any defects in the complaint are expressly waived. Additional but related claims against  
6 San Franciscans Against the Blank Check — No On Measure D Committee Sponsored by PG&E and  
7 Sutton have been resolved by the San Francisco Ethics Commission which conducted a joint  
8 investigation of these matters with Plaintiff. Together, the action contemplated by this stipulation and  
9 the resolution between the Committee, Sutton, and the San Francisco Ethics Commission constitute a  
10 final civil and administrative settlement of the matters stated herein and shall resolve all existing and  
11 potential claims against all Defendants and the law firm of Nielsen, Merksamer, Parrinello, Mueller  
12 & Naylor, LLP (“Nielsen Merksamer”) pertaining to or arising out of the course of conduct described in  
13 the complaint, and including all claims pertaining to the reporting of contributions made by Defendant  
14 PG&E Corporation to Defendant San Franciscans Against the Blank Check — No On Measure D  
15 Committee Sponsored by PG&E, and to reach a final disposition with respect to Defendants, without the  
16 necessity of holding a civil trial to determine their liability.

17 Defendants PG&E Corporation, San Franciscans Against the Blank Check — No On Measure D  
18 Committee Sponsored by PG&E, and Sutton understand, and hereby knowingly and voluntarily waive,  
19 any and all procedural rights that they could have exercised if this stipulation had not been entered into,  
20 including, but not limited to, their right to civil discovery, to appear personally at any civil trial held in  
21 this matter, to confront and cross-examine witnesses, and to have the trial presided over by an impartial  
22 judge, and heard and decided by a jury.

### 23 **ENTRY OF JUDGMENT**

24 For the violations of the Political Reform Act admitted herein, Plaintiff Fair Political Practices  
25 Commission and Defendants PG&E Corporation, San Franciscans Against the Blank Check — No On  
26 Measure D Committee Sponsored by PG&E, and Sutton stipulate that a final judgment be issued and  
27 entered in the form of the order attached hereto and made a part hereof as Exhibit “A,” in favor of  
28 Plaintiff Fair Political Practices Commission and against Defendants PG&E Corporation, San

1 Franciscans Against the Blank Check — No On Measure D Committee Sponsored by PG&E, and Sutton,  
2 for a total monetary penalty of one hundred forty thousand dollars (\$140,000). Payment of this amount  
3 shall be made by cashier's check, payable to the "General Fund of the State of California." Seventy  
4 thousand dollars (\$70,000) shall be paid upon the execution of this stipulation, and the remaining  
5 seventy thousand dollars (\$70,000) shall be paid within six months of the execution of this stipulation.  
6 The parties shall each bear their own attorneys fees and costs.

7 This stipulation is part of a global settlement reached in conjunction with the San Francisco  
8 Ethics Commission. As part of the settlement, Defendants Committee and Sutton have agreed to pay a  
9 monetary penalty of \$100,000 to the City and County of San Francisco.

10 Defendant Sutton was a partner of the law firm of Nielsen Merksamer at all relevant times. As  
11 explained below, Defendants PG&E Corporation and the Committee expressly and reasonably relied on  
12 Defendant Sutton and staff at Nielsen Merksamer to prepare and timely file the reports at issue here  
13 which Nielsen Merksamer staff and Sutton did not do. Defendant Sutton and Nielsen Merksamer are  
14 therefore taking full responsibility for the violations described herein as well as the monetary penalties  
15 imposed by both Plaintiff and the San Francisco Ethics Commission.

16 The final judgment may be signed by any judge of the Superior Court of the State of California,  
17 for the County of Sacramento and entered by any clerk upon application of any party without notice.

### 18 **STIPULATED STATEMENT OF LAW AND FACTS**

#### 19 **1. THE PARTIES AND BACKGROUND INFORMATION**

20 Plaintiff Fair Political Practices Commission (the "Commission") is a state agency created by the  
21 Political Reform Act of 1974 (the "Act"). (Gov. Code §§ 81000 - 91014.) The Commission has primary  
22 responsibility for the impartial, effective administration and implementation of the Act. (Gov. Code  
23 § 83111.) Pursuant to Government Code section 91001, subdivision (b), the Commission is the civil  
24 prosecutor for matters involving state committees, and is authorized to maintain this action against  
25 Defendant PG& E Corporation under Government Code sections 91001, subdivision (b), 91004, 91005,  
26 and 91005.5. Additionally, the Commission may act as the civil prosecutor with respect to a local ballot  
27 measure committee pursuant to Government Code section 91001, subdivision (b) upon written  
28 authorization from the district attorney. The Commission has received written authorization from the

1 District Attorney for the City and County of San Francisco to bring and resolve this civil action against  
2 Defendants San Franciscans Against the Blank Check — No On Measure D Committee Sponsored by  
3 PG&E and Sutton by letter dated July 29, 2003. As the Commission is acting as the civil prosecutor  
4 concerning this matter, the judgment herein precludes any other agency, organization, entity, or person  
5 from obtaining any further judgment with respect to the matters described in this action, as provided by  
6 Government Code section 91008.

7 Defendant PG&E Corporation was, at all times relevant to this matter, a committee as defined in  
8 Government Code section 82013, subdivision (c). This type of committee is commonly referred to as a  
9 “major donor” committee. Defendant San Franciscans Against the Blank Check — No On Measure D  
10 Committee Sponsored by PG&E was, at all times relevant to this matter, a recipient committee as  
11 defined in Government Code section 82013, subdivision (a). Defendant Sutton was, at all times relevant  
12 to this matter, the treasurer of Defendant San Franciscans Against the Blank Check — No On Measure D  
13 Committee Sponsored by PG&E, and Nielsen Merksamer and Sutton at all times relevant represented  
14 PG&E Corporation and the Committee.

15 2. SUMMARY OF THE CAMPAIGN REPORTING LAWS

16 An express purpose of the Act, as set forth in Government Code section 81002, subdivision (a),  
17 is to ensure that the contributions and expenditures affecting election campaigns are fully and truthfully  
18 disclosed to the public, so that voters may be better informed, and so that improper practices will be  
19 inhibited. In furtherance of this purpose of disclosure, the Act sets forth a comprehensive campaign  
20 reporting system. (Gov. Code § 84200 et seq.)

21 One feature of this system is Government Code section 84203, subdivision (a). That statute  
22 requires a committee that makes or receives a contribution of \$1,000 or more during the last 16 days  
23 before an election, to file a late contribution report within 24 hours of making or receiving the  
24 contribution. Additionally, Government Code section 84605 requires a major donor committee to file a  
25 late contribution report online or electronically if it makes contributions of fifty thousand dollars  
26 (\$50,000) or more in a calendar year. Government Code section 82036 defines a “late contribution” as a  
27 contribution aggregating \$1,000 or more that is received before an election, but after the closing date of  
28 the last pre-election statement. Government Code section 82015, subdivision (a) defines a

1 “contribution,” in pertinent part, as a payment except to the extent that full and adequate consideration is  
2 received, unless it is clear from the surrounding circumstances that it is not made for political purposes.  
3 Pursuant to Government Code sections 84200.7 and 84200.8, the late contribution reporting period is the  
4 last 16 days before an election.

5 3. CIVIL LIABILITY PROVISIONS

6 Under Government Code section 91004, any person who intentionally or negligently violates any  
7 of the reporting requirements of the Act shall be liable in a civil action in an amount up to the amount  
8 not properly reported. Persons that violate Government Code section 84203 are liable in a civil action  
9 pursuant to Government Code section 91004.

10 Pursuant to Government Code sections 81004, subdivision (b) and 84100, and California Code  
11 of Regulations, title 2, section 18427, subdivision (c), it is the duty of a committee’s treasurer to ensure  
12 that the committee complies with all of the requirements of the Act concerning the receipt and  
13 expenditure of funds, and the reporting of such funds. A committee’s treasurer may be held jointly and  
14 severally liable, along with the committee, for any reporting violations committed by the committee.  
15 (Gov. Code §§ 83116.5, 91006.)

16 4. SUMMARY OF THE FACTS

17 Defendant PG&E Corporation

18 As a major donor committee, Defendant PG&E Corporation had a duty to comply with the  
19 campaign reporting provisions of the Act, including the duty to file late contribution reports as required  
20 by Government Code section 84203, subdivision (a) and the duty to electronically file late contribution  
21 reports as required by Government Code section 84605, subdivision(a). In this matter, the late  
22 contribution reporting period for the November 5, 2002 general election was October 20, 2002, through  
23 November 4, 2002.

24 At all times relevant, Defendant PG&E Corporation was represented by Nielsen Merksamer and  
25 Defendant Sutton was a partner of the law firm, worked on PG&E Corporation matters, and served as  
26 the treasurer for Defendant Committee. As discussed below, Nielsen Merksamer and Defendant Sutton  
27 were responsible for preparing and filing all late contribution reports for both Defendant PG&E  
28 Corporation and Defendant Committee.

1 Defendant PG&E Corporation made two late contributions to Defendant San Franciscans  
2 Against the Blank Check — No On Measure D Committee Sponsored by PG&E, a ballot measure  
3 committee opposed to Proposition D in the November 5, 2002 general election. The first late  
4 contribution was made on October 23, 2002, in the amount of \$500,000. The second late contribution  
5 was made on October 25, 2002, in the amount of \$300,000.

6 After making the two late contributions, Defendant PG&E Corporation had a duty to file a late  
7 contribution report disclosing the October 23, 2002 late contribution no later than October 24, 2002, and  
8 a duty to file a late contribution report for the October 25, 2002 late contribution no later than October  
9 26, 2002. Additionally, Defendant PG&E Corporation had a duty to electronically file late contribution  
10 reports disclosing the October 23, 2002 late contribution no later than October 24, 2002, and the October  
11 25, 2002 late contribution no later than October 26, 2002. Defendant PG&E Corporation did not file  
12 either the first late contribution report by the October 24, 2002 due date or the second late contribution  
13 report by the October 26, 2002 due date. Additionally, Defendant PG&E Corporation did not  
14 electronically file either the first late contribution report by the October 24, 2002 due date or the second  
15 late contribution report by the October 26, 2002 due date. By failing to file late contribution reports and  
16 electronic late contribution reports by the respective October 24, 2002 and October 26, 2002 due dates,  
17 Defendant PG&E Corporation violated Government Code sections 84203, subdivision (a) and  
18 Government Code section 84605, subdivision (a).

19 An exhaustive and joint investigation by Plaintiff and the San Francisco Ethics Commission  
20 found that Defendant PG&E Corporation sent the two checks to Defendant Sutton at Nielsen  
21 Merksamer, confirmed their receipt, and, pursuant to its express agreement with Nielsen Merksamer,  
22 fully expected all applicable reports to be timely filed. Neither Defendant PG&E Corporation nor  
23 Defendant Committee was aware that the necessary reports were not timely filed. The investigation  
24 further found that the reporting errors by Nielsen Merksamer staff and Defendant Sutton, acting as the  
25 agents of Defendant PG&E Corporation, were made during the busiest days of the campaign cycle. At  
26 the conclusion of this joint investigation it was determined that the failure to timely file the reports was  
27 negligent and not intentional.  
28

1 Nielsen Merksamer and Defendant Sutton discovered the errors several weeks after the  
2 November 2002 election and immediately notified Defendants PG&E Corporation and Committee.  
3 Thereafter, Defendants immediately, voluntarily, and publicly disclosed both contributions and filed  
4 amended campaign reports. Nielsen Merksamer and Defendant Sutton immediately took full  
5 responsibility for the mistakes, and Defendants and Nielsen Merksamer have fully cooperated with this  
6 investigation.

7 Defendants San Franciscans Against the Blank Check — No On Measure D Committee  
8 Sponsored By PG&E and Sutton

9 As a recipient committee, Defendant San Franciscans Against the Blank Check — No On  
10 Measure D Committee Sponsored by PG&E and its treasurer, Defendant Sutton, had a duty to comply  
11 with the campaign reporting provisions of the Act, including the duty to file late contribution reports as  
12 required by Government Code section 84203, subdivision (a). In this matter, the late contribution  
13 reporting period for the November 5, 2002 general election was October 20, 2002, through November 4,  
14 2002.

15 Defendant San Franciscans Against the Blank Check — No On Measure D Committee Sponsored  
16 by PG&E and its treasurer, Defendant Sutton, received two late contributions from Defendant PG&E  
17 Corporation, in the November 5, 2002 general election. The first late contribution was received on  
18 October 23, 2002, in the amount of \$500,000. The second late contribution was received on October 25,  
19 2002, in the amount of \$300,000.

20 After receiving the two late contributions, Defendant San Franciscans Against the Blank Check  
21 — No On Measure D Committee Sponsored by PG&E and its treasurer, Defendant Sutton, had a duty to  
22 file a late contribution report for the October 23, 2002 late contribution no later than October 24, 2002,  
23 and a duty to file a late contribution report for the October 25, 2002 late contribution no later than  
24 October 26, 2002. Defendants did not file either the first late contribution report by the October 24,  
25 2002 due date or the second late contribution report by the October 26, 2002 due date. By failing to file  
26 late contribution reports by the October 24, 2002 and October 26, 2002 respective due dates, Defendant  
27 San Franciscans Against the Blank Check — No On Measure D Committee Sponsored by PG&E and its  
28 treasurer, Defendant Sutton violated Government Code sections 84203.

As discussed above in greater detail, after fully investigating this matter, Plaintiff Fair Political Practices Commission and the San Francisco Ethics Commission concluded that the failure to timely report the two contributions was negligent and not intentional.

**CONCLUSION**

Judgment shall be entered in favor of Plaintiff Fair Political Practices Commission and against Defendants PG&E Corporation, San Franciscans Against the Blank Check — No On Measure D Committee Sponsored by PG&E and Sutton, as provided in this stipulation.

IT IS SO STIPULATED:

Dated: \_\_\_\_\_

\_\_\_\_\_  
James R. Sutton, as treasurer of San  
Franciscans Against the Blank Check - No  
On Measure D Committee Sponsored by  
PG&E

Dated: \_\_\_\_\_

\_\_\_\_\_  
James R. Sutton, on behalf of San  
Franciscans Against the Blank Check - No  
On Measure D Committee Sponsored by  
PG&E

Dated: \_\_\_\_\_

\_\_\_\_\_  
Thomas A. Willis  
Remcho, Johansen & Purcell,  
Attorneys for Defendant San Franciscans  
Against the Blank Check — No On Measure D  
Committee Sponsored by PG&E

Dated: \_\_\_\_\_

\_\_\_\_\_  
Iathan Annand



1 Defendant PG&E Corporation and its affiliated  
2 entities and subsidiaries

3  
4  
5 Dated: \_\_\_\_\_

\_\_\_\_\_  
6 Ethan A. Balogh  
7 Keker & Van Nest  
8 Attorneys for Defendant PG&E Corporation  
9 and its affiliated entities and subsidiaries

10 Dated: \_\_\_\_\_

\_\_\_\_\_  
11 Vigo G. "Chip" Nielsen  
12 Law Offices of Nielsen, Merksamer, Parrinello,  
13 Mueller & Naylor, LLP

14  
15 Dated: \_\_\_\_\_

Fair Political Practices Commission, Plaintiff

16  
17 By: \_\_\_\_\_  
18 Mark Krausse, Executive Director

19  
20 Dated: \_\_\_\_\_

\_\_\_\_\_  
21 William J. Lenkeit  
22 Attorney for Plaintiff Fair Political Practices  
23 Commission